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FACSIMILE SUBMISSION UNDER 37 CFR 1.8

TO:	Mail Stop Amendments Examiner Jeffrey Gerben Hoekstra	FROM:	Jason D. Kelly
COMPANY:	U.S. Patent & Trademark Office	DATE:	FEBRUARY 21, 2008
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PHONE NUMBER:	571-272-7232	SENDER'S REFERENCE NUMBER:	1023-362US01
RE:	Response to Restriction Requirement dated January 23, 2008	APPLICATION SERIAL NUMBER:	10/825,955

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PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

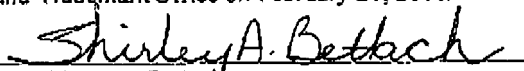
Applicant: Kenneth T. Heruth; Confirmation No. 8230
Keith A. Miesel
Serial No.: 10/825,955
Filed: April 15, 2004 Customer No.: 28863
Examiner: Jeffrey Gerben Hoekstra
Group Art Unit: 3736
Docket No.: 1023-362US01
Title: COLLECTING ACTIVITY AND SLEEP QUALITY INFORMATION VIA
A MEDICAL DEVICE

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CERTIFICATE UNDER 37 CFR 1.8 I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office on February 21, 2008.

By:



Name: Shirley A. Betlach

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

This Response is to the Office Action mailed January 23, 2008. The Office Action required election of one of the following:

- Species AAA: "monitoring embodiment" drawn to at least paragraphs 6-17 and claims 1-9, 11, 12, 14, 15 and 17-21; and
- Species BBB: "therapy embodiment" drawn to at least paragraphs 18-19 and claims 22-23, 25-27, and 69-70.

Applicant hereby elects Species AAA with traverse. Species AAA and Species BBB are not mutually exclusive species of a common genus. Accordingly, contrary to the indication in the Office Action, all pending claims (1-9, 11, 12, 14, 15, 17-23, 25-27, 69 and 70) read on species AAA. Furthermore, contrary to the indication in the Office Action that no claim is generic, claim 1 is clearly generic to both Species.